(33)

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

DIVISION BENCH

CORAM : **HON'BLE SHRI S.R. NAYAK, C.J.**
HON'BLE SHRI D.R. DESHMUKH, J.

Misc. Appeal NO.290 OF 2006

APPELLANT Jagdish Sahu, S/o. Chetan Sahu, aged about 43 years, Occupation Agriculture, R/o. Kon Pali, P.S. Pusaur, Tahsil & District : Raigarh (CG).... **(Owner of the Vehicle).**

Versus

RESPONDENTS

1. Smt. Gula W/o. Late Jaylal Pao, Aged about 32 years.
2. Ku. Urwashani, D/o. Jaylal Pao, Aged about 08 years.
3. Ku. Janani, D/o. Jaylal Pao, Aged about 04 years.
4. Ma. Deepak (Minor), S/o. Jaylal Pao, aged about 01 year.
5. Jharu Pobiya, S/o. Udiya Pobiya, Aged about 70 years.
6. Smt. Moong Bai, W/o. Jharu Pobiya, Aged about 65 years.

All resident of Village Tribhauna, Block Pusaur, Tahsil & District-Raigarh (CG).
..... **Claimants**
(Respondents 2 to 4 are minors hence through their natural Guardian Father Shri Jaylal Pao)

7. Jagdish Pobiya, S/o. Shrimat Pobiya, Aged about 47 years, R/o. Village Pusaur, Tahsil & District-Raigarh (CG)
.....**(Driver)**

Present : Shri P.R. Patankar, learned counsel for the appellant.

(ORAL ORDER)
(Passed on 22nd March, 2006)

Te following order of the Court was passed by

S.R. Nayak, CJ.

In this appeal preferred by the owner of the motor vehicle involved in the accident, the only contention raised by learned counsel for the appellant is that the appellant had paid total sum of Rs. 55,000/- to the dependents of the deceased before the Panchayatdars of the village and also towards meeting the funeral expenses, and that sum was not set off against the total compensation determined by the MACT. Of course this plea was also urged before the MACT for consideration, but, the MACT did not accept that plea, because, admittedly the appellant did not produce any evidence in support of that plea. Therefore, we cannot take any exception to the impugned award in not deducting sum of Rs. 55,000/- out of the total compensation determined by the MACT. Even the other contention meekly submitted before us that the accident took place not on account of rash and negligent driving of the driver of the motor vehicle owned by the petitioner, but due to actionable negligence on the part of the driver of the bus, the other vehicle involved in the accident, does not merit our acceptance. We have perused the impugned award. The factual finding recorded by the MACT is based on substantive pieces of legal evidence. There is no merit in the appeal and it is accordingly dismissed.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

Subby